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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/163,529 09/30/98 DUTTON

R 7003/036

EXAMINER

024283 MM91/0816  
DUFT, GRAZIANO & FOREST, PC  
PO BOX 270930  
LOUISVILLE CO 80027

PATENT  
ART UNIT J

PAPER NUMBER

2855  
DATE MAILED:

08/16/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/163,529

Applicant(s)

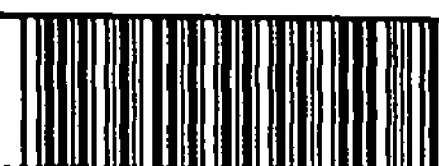
Dutton

Examiner

JAGDISH PATEL

Group Art Unit

2855



☒ Responsive to communication(s) filed on Sep 30, 1998

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-24 is/are pending in the application.

Of the above, claim(s) 24 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-23 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Sep 30, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 and 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 2855

**DETAILED ACTION**

***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-23, drawn to a Coriolis flowmeter, classified in class 73, subclass 861.356.
- II. Claim 24, drawn to a product/processor, classified in class 702, subclass 100.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the claim of group II does not recite the limitations of the Coriolis flowmeter as presented in the claim of group I. The subcombination has separate utility-such as measuring the flow rate in any engineering application.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 2855

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

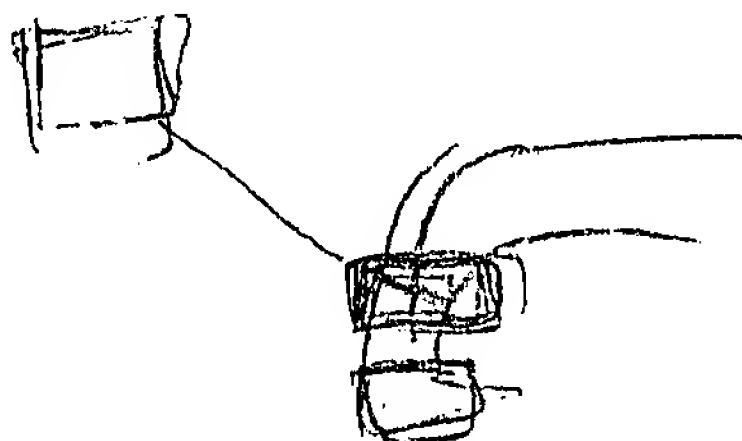
6. During a telephone conversation with Donald M. Duft on 07/24/00 a provisional election was made without traverse to prosecute the invention of group I, claims 1-23. Affirmation of this election must be made by applicant in replying to this Office action. Claim 24 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### *Drawings*

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature "producing well" in claims 11 and 12, must be shown with reference number or the feature canceled from the claim. No new matter should be entered.

### *Specification*

8. The disclosure is objected to because of the following informalities: "IN" on page 8, line 11, "803. 803' and 803'" on page 14, line 6, "De" on page 15, line 22 and "Tr" on page 16, line 8, are typographic errors. The terms "valves 803, 803' and 803" (page 14, lines 8 and 10 and



Art Unit: 2855

page 15, line 6) and "wells 803, 803', and 803'" (page 14, line 17) and "a single well 803, 803' or 803'" (page 15, line 12) are not consistent. The statement "The well flowing...total sales." on page 14, lines 15-17 is an indefinite sentence.

Appropriate correction is required for typographic errors, consistency and indefinite sentence.

9. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

11. Claims 1-23, are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to provide adequate written description of the claimed invention.

The following claimed elements/means and functions are not identified in the specification:

In Claim 1, "means for responding". In Claim 2, "means for comparing". In Claim 4, "means for comparing". In Claim 5, "means for providing". In Claim 6, "means for retrieving". In Claim 9, "means for retrieving". In Claim 10, "means for retrieving". In Claim 11, "means for stopping". In Claim 12, "means for indicating". In Claim 13, "means for providing".

Art Unit: 2855

The following claimed steps are not identified in the specification: In Claim 14, "responding". In Claim 15, "comparing". In Claim 16, "setting". In Claim 17, "comparing". In Claim 18, "providing". In Claim 19, "retrieving". In Claim 20, "averaging". In Claim 21, "subjecting". In Claim 22, "retrieving". In Claim 23, "retrieving".

✓ The term "multiphase flow" in Claim 1 (lines 2, 8 and 5) is repeatedly recited in the body of the claim. It is not clear the above mention term is same or different. Applicant's should use "said or the" for referring back to the same term or use "first and second" for defining the different term in the body of the claim. (In addition, the term "multiphase flow" is ambiguously recited in ~~Claim 2 (line 3)~~, in Claim 3 (line 2) and in ~~Claim 4 (line 4)~~. It is not clear as to what this term referring back to. For example, is they referring back to the recited said multiphase flow in ~~Claim 14, lines 2, 8 and 5~~ or is this other multiphase flow?? From 14 or — (see)

Ⓢ { The term "multiphase flow" in Claim 15 (line 3), in Claim 16 (line 2) and in Claim 17 (line 3), is ambiguously recited in the body of the claim. It is not clear as to what this term referring back to. For example, is they referring back to the recited said multiphase flow in claim 14, line 6 or is this other multiphase flow??

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

AC/

Art Unit: 2855

13. Claims 1-23, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following limitations lack antecedent basis: ~~In Claim 1, "the existence"~~. In Claims 11 and 12, "the conduct". ~~In Claim 14, "the existence", "said monitoring means (both occurrences)"~~. ~~In Claim 16, "said step of comparing"~~. ~~In Claim 19, "said step of providing"~~; In Claims 22 and 23 "said providing means".

✓ In Claim 1, there is no structural interrelationship between the claimed elements. The elements "at least one flow tube", "<sup>a driver</sup>means for vibrating", "means for monitoring" and "means for responding", are not structurally connected to each other. In addition, the term "capable of use" in the preamble of the claim is not understood since same do not provide any structural features.

✓ Claims 11 and 12 recite the term "said flowmeter" is ambiguous because the claim should recite only positive limitations and not the invention itself defining the limitations. "a well" "small" "sail" "well"

✓ Claims 22 and 23 recite the term "means" is improper in the method claims since same do not provide any method limitation.

### ***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2855

15. Claims 1-23, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman (5,804,741). Freeman discloses a Coriolis flowmeter including a flow tube (14), means for vibrating (28) and means for monitoring (40).

***Conclusion***


16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buttler et al. (5,687,100), Derby et al. (5,555,190), Arunachalam et al. (5,295,084) and Hargarten et al. (4,911,006).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 305-0930. The examiner can normally be reached on Monday through Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Fuller can be reached at (703) 308-0079. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

  
Jagdish Patel

August 2, 2000

  
Benjamin R. Fuller  
Supervisory Patent Examiner  
Technology Center 2800